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HIGH COURT OF CHHATTISGARH : BILASPUR

Division Bench

Writ Petition No. 3320 of 2003

Coram : Hon'ble Shri Jagdish Bhalla, Acting CJ &
Hon'ble Shri Satish K. Agnihotri, J

PETITIONER — Chhattisgarh Chamber of Commerce and Industries, Raigarh District Unit through the President Rajendra Kumar Agrawal, S/o. Pannalal aged 45 years, resident of Kabir Chowk, Raigarh (Chhattisgarh)

Versus

RESPONDENTS

1. Union of India, through the Secretary, Ministry of Railways, Rail Bhawan, New Delhi
2. Railway Board, through the Director, Transport/Planning, Rail Bhawan, New Delhi
3. South Eastern Railway through its General Manager, Garden Reach, Kolkata (West Bengal)
4. Divisional Railway Manager, South Eastern Railway, Bilaspur Division, Bilaspur (Chhattisgarh)
5. State of Chhattisgarh through the Collector, Raigarh at and P.O. District Raigarh (Chhattisgarh)

(Writ Petition under Article 226/227 of the Constitution of India)

Present :

Shri Vivek Ranjan Tiwari, counsel for the petitioner.
None appears for the respondents.

ORAL ORDER

(Passed on 5th December, 2007)

The following oral order of the Court was passed by **Hon'ble Shri Jagdish Bhalla, Acting C.J.**

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The Raigarh District Unit of Chhattisgarh Chamber of Commerce and Industries has approached this Court in the form of Public Interest Litigation with a prayer that a writ in the nature of mandamus be issued.

Learned counsel appearing for the petitioner submits that some foundation stone was laid in the year 1999 for providing terminal maintenance facilities at Raigarh, but the said proposal has been withdrawn subsequently, hence, this Public Interest Litigation.

We find that the Chhattisgarh Chamber of Commerce and Industries has not approached this Court, but its Raigarh District Unit has approached this Court through its President. We further find that there is no authorization by the District unit to its President to file this writ petition, even there is no such averment in this petition, in support.

The moot question raised by the petitioner in this petition is whether the facility provided by the State and its instrumentalities can be withdrawn?

In the case in hand, the railway has decided to provide terminal facilities at Raigarh railway station and subsequently it has been changed. According to the petitioner, the project is still viable and the same be provided only at Raigarh. During the course of arguments, it has come before this Court that most of the trains either do not go to Raigarh or do not terminate at Raigarh and therefore, if the authorities concerned have taken a decision on the administrative ground to change the project to some better place, the point is whether this Court can show interference in the domain of the executive?

We would have appreciated if the petitioner had done some homework bringing on record the further details as to why the project shall remain at Raigarh, how many trains could have been diverted or

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how many trains terminate at Raigarh and why this project be made available only at Raigarh railway station? We are of the opinion that it was incumbent upon the petitioner and its counsel to make earnest effort for bringing on record all the materials available on the basis of which a case could have been made out for interference under Article 226 of the Constitution of India. We further find that how the petitioner became interested in this project has also not been explained. There is nothing on record to show that the petitioner had earlier taken up some important matters of public interest. On the other hand, we find that the petitioner is an organization comprising of businessmen. Therefore, there is a question mark whether this is a public interest litigation or it has been filed in the interest of certain businessmen who can be benefited by having the project at Raigarh. In premise, we feel that this litigation has been filed in the interest of Commerce and Industry. The petitioner has failed to explain why only the project at Raigarh can be in public interest.

It has been indicated on behalf of the railways that the interest and need of traveling public has been given due importance and therefore in the national interest the decision has been taken. Lot of consultations were made by the experts and their Committees having representatives of all the walks of life including professionals at various levels, who had studied the matter for a period of two years. Even the representatives of Chamber of Commerce and Trade Association were also nominated as members of the Committees and it was only in the public interest that the policy was revised.

Now, according to the new policy a decision has been taken that terminals would be made available at a distance of 2500 kms. It has also been submitted that the facility which was decided to be provided at

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Raigarh is in fact available at Jharsguda railway station i.e. just 74 kms. from Raigarh and from Bilaspur railway station it is just 132 kms.

In the light of above discussion, we find that the petitioner has miserably failed to make out any reasonable ground for showing interference in the matter. Accordingly, the writ petition is dismissed.

Sd/-
Acting Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Suguna